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August 23, 2022

Satish Patel                                      Via Email:    nloveshisgps@aol.com  
Neel Patel  
321 Properties LLC                                      info@theparkviewinn.com  
D/B/A Parkview Inn  
D/B/A Clarion Pointe Downtown Gatlinburg  
200 East Parkway  
Gatlinburg, Tennessee 37738-3252

RE: Client: David Oppenheimer/Performance Impressions  
Matter: Infringement(s) of Copyrighted Photograph and Digital Millennium Copyright Act ("DMCA") violations by 321 Properties, LLC, and its principals, Neel Patel and Satish Patel

Dear Patels:

The undersigned is counsel for Asheville Photographer, David Oppenheimer with respect to copyright matters, including your (*plural*) willful, direct, and continuing infringements of his copyright-protected, arial photographic work shown below:<sup>1</sup>



It appears from the website's metadata that as early as *September 2, 2019*, the above image was being displayed in/on/at these URL(s):

<sup>1</sup> The image shown is protected by copyright registration number VAu 1-203-961 entitled "*Harrah's Cherokee Casino Resort and Concerts Gregg Allman and Willie Nelson.*"

<https://theparkviewinn.com/>;  
<https://theparkviewinn.com/images/GSMNP1737X1160.jpg>;  
<https://clarionpointegatlinburg.com/>;  
<https://clarionpointegatlinburg.com/images/GSMNP1737X1160.jpg>; *and*  
<https://clarionpointegatlinburg.com/#about>.

In addition, you (*plural*) or someone at your direction or behest, removed Mr. Oppenheimer's copyright management metadata that was within the work, in violation of the Digital Millennium Copyright Act ("DMCA").

This letter is Mr. Oppenheimer's demand that you (*plural*) **immediately**:

1. **Cease and desist from all further dissemination** and/or distribution of this work *and all other works* of Mr. Oppenheimer, and provide proof of same to the undersigned (a partial listing of known URLs is above; **you must immediately take-down** all iterations of the work from all URLs, *and* recall all print and other media);
2. **Tender to the undersigned an audited accounting** of the revenue received by you (*plural*) attributable to the lengthy use of the work;
3. **Lockdown and protect all Electronically-Stored Information**, including email, as described in the attached "Notice Concerning Retention of Potentially Relevant Documents;"
4. **Produce to the undersigned** a copy of each and every brochure, flier, and all other tangible advertising bearing either of the image, and provide same to the undersigned for destruction;
5. **Buy back or otherwise withdraw all distributed copies** of everything bearing the protected image;
6. **Return all remaining copies** in your possession and constructive possession; all tangible representations, all magnetically or optically stored data bearing and/or storing the copyrighted image of Mr. Oppenheimer;<sup>2</sup>

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<sup>2</sup> However, **do not destroy any prints or digital evidence** (including but not limited to images, email, e-mail attachments, mockups, print copies, memos or other relevant or potentially relevant paper or digital data) from any of your servers, backup servers/cloud storage, desktops, laptops or smart phones (with the one exception for removing the infringing copies of the photo that we know of and identified from hosting server(s) so that they are no longer online and available to search engines). Doing so is ***spoliation of evidence***, as described in the enclosed Notice Concerning Retention of Potentially Relevant Documents (see

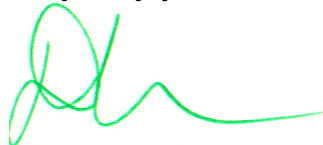
7. **Tender to the undersigned a sworn itemization** of all uses of the work, *as well as any others* of Mr. Oppenheimer by completing, executing, and returning the “circumscription declaration” attached to the email transmitting this letter; *and*

8. **Immediately inform the relevant Commercial General Liability Insurance Carriers of this claim** (copyright infringement claims of this type are covered under Coverage B, the “advertising injury” portion of most Comprehensive General Liability Insurance Policies).

Please forward correspondence to the undersigned **within three (3) days** of receipt of this letter indicating your intentions in these regards. **Absent actual receipt by the undersigned of a response from you, a lawsuit may be filed in U.S. District Court without further notice to you.**<sup>3</sup>

Please do not communicate directly with Mr. Oppenheimer about this matter, as doing so will be construed tortious interference with the attorney-client relationship. Rather, should any of you, your attorney(s), and/or your insurance carrier(s) or adjuster(s) have questions or comments, please direct them to the undersigned, using the mail, email address, or cellular phone number (713-858-3058), on weekdays, during regular business hours.

Very truly yours,



Dana LeJune

DL/pkt

Att: Spoliation Notice/Warning  
Copyright Registration Certificate  
Circumscription Declaration (marked Rule 408)

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attached). **Instead, please immediately “lockdown” of all such locations** where relevant data might reside, to prevent intentional or negligent destruction of evidence (most counsel advise clients to “mirror” all servers and hard drives). **For example, do not delete the native format image and subsequent copies from where they were stored to any Electronic Storage Devices as downloaded, otherwise obtained, or printed, and from whence it was uploaded to a web hosting server, or other places where displayed or otherwise used. It may be prudent to retain an IT professional to accomplish the takedowns without compromising data or losing it...**

<sup>3</sup> **Should you or your insurance adjuster or attorney have questions about this letter**, rather than ignoring it, and not responding, **please call me on my cell phone.**